be unreasonable for EPA to require annual incremental reductions in emissions in lead nonattainment areas. The RFP for lead nonattainment areas should be met, at least in part, by "adherence to an ambitious compliance schedule"[6] which is expected to periodically yield significant emission reductions, and as necessary, linear progress. The EPA recommends that SIP's for lead nonattainment areas provide a detailed schedule for compliance with RACM (including RACT) in the areas and accurately indicate the corresponding annual emissions reductions to be achieved. In reviewing the SIP, EPA will determine whether, in light of the statutory objective to ensure timely attainment of the lead NAAQS, the annual incremental emission reductions to be achieved are reasonable. Additionally, EPA believes that it is appropriate to expect early implementation of less technology-intensive control measures (e.g., controlling fugitive dust emissions at the stationary source) while phasing in the more technology-intensive control measures, such as those involving the installation of new hardware. Finally, note that failure to implement the SIP provisions required to meet annual incremental reductions in emissions (i.e., RFP) in a particular area could result in the application of sanctions as described in sections 110(m) and 179(b) of the Act (pursuant to a finding under section 179(a)(4)), and the implementation of contingency measures required by section 172(c)(9) of the Act.

IV. Contingency Measures

Section 172(c)(9) of the Act defines contingency measures as measures in a SIP which are to be implemented if an area fails to maintain RFP or fails to attain the NAAQS by the applicable attainment date. Contingency measures become effective without further action by the State or the Administrator, upon determination by the Administrator that the area has failed to maintain reasonable further progress or attain the lead NAAQS by the applicable statutory deadline. Contingency measures should consist of available control measures that are not included in the primary control strategy.

Contingency measures are important for lead, which is generally a stationary source problem (as discussed earlier), for several reasons. First, the current process and area fugitive emissions from these stationary sources and the reentrainment of historically-deposited emissions are difficult to quantify. Therefore, the analytical tools for determining the relationship between reductions in emissions and resulting air quality improvements can be subject to uncertainties. Second, emission estimates and attainment analyses can be influenced by overly-optimistic assumptions about control efficiency with respect to fugitive emissions.

Examples of contingency measures for controlling area fugitives include paving more roads, stabilizing more storage piles, increasing the frequency of street cleaning, etc. Examples of contingency measures for process fugitive emissions include increasing enclosure of buildings, increasing air flow in hoods, increasing operation and maintenance procedures, etc. Examples of contingency measures for stack sources include reducing hours of operations, changing the feed material to lower lead content, and reducing the occurrence of malfunctions by increasing operation and maintenance procedures, etc.

Section 172(c)(9) provides that contingency measures should be included in the SIP for a lead nonattainment area and shall "take effect * * * without further action by the State or the Administrator." The EPA interprets this requirement to be that no further rulemaking actions by the State or EPA would be needed to implement the contingency measures (see generally 57 FR 13512 and 13543–13544). The EPA recognizes that certain actions, such as the notification of sources, modification of permits, etc., would probably be needed before a measure could be implemented. However, States must show that their contingency measures can be implemented with minimal further action on their part and with no additional rulemaking actions such as public hearings or legislative review. After EPA determines that a lead nonattainment area has failed to maintain RFP or to timely attain the lead NAAQS, EPA generally expects all actions needed to affect full implementation of the measures to occur within 60 days after EPA notifies the State of such failure. The State should ensure that the measures are fully implemented as expeditiously as practicable after they take effect.

V. Other Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA is required to judge whether an action is "major" and, therefore, subject to the requirements of a regulatory impact analysis. The Agency has determined that this action is exempt from classification as "major" because it is a compilation of interpretive rule and general statements of policy as defined in the Administrative Procedure Act (APA). Nevertheless, this notice was submitted to the Office of Management and Budget (OMB) for review.

A copy of the draft notice as submitted to OMB, any documents accompanying the draft, any written comments received from other agencies (including OMB), and any written responses to these comments have been included in the docket.

B. Regulatory Flexibility Act

Whenever the Agency is required by section 553 of the APA or any other law to publish general notice and proposed rulemaking for any proposed rule, the Agency shall propose and make available for public comment an initial regulatory flexibility analysis. The regulatory flexibility requirements do not apply for the lead addendum to the General Preamble because it is not a regulatory action in the context of the APA or the Regulatory Flexibility Act.

List of Subjects in 40 CFR Part 52

Environmental protection, Reasonably available control measures, Reasonably available control technology, Contingency measures, Reasonable further progress.

Dated: December 13, 1993.

Carol M. Browner,

Administrator.

Appendix 1—Available Fugitive Lead-Bearing Dust Control

A. Background

The available control measures listed below apply to all fugitive lead-bearing dust sources except those to which RACT is applicable (i.e., fugitive lead-bearing dust associated with traditional stationary sources). Fugitive lead-bearing dust is particulate matter suspended in the air either by mechanical disturbance of the surface material or by wind action blowing across the surface. Mechanical disturbance includes resuspension of particles from vehicles traveling over roadways, parking lots, and other open areas. Wind action includes dust blown off inadequately stabilized open areas. The quantity of fugitive lead-bearing dust emissions is dependent upon several factors such as the size of the source, emission rate, and control efficiency. The EPA's policy is to reduce fugitive lead-bearing dust emissions, with an emphasis on preventing, rather than mitigating, them. For example, past

[6] As previously stated most of the lead nonattainment problems are caused by point sources. For this reason EPA believes that the RFP for lead should parallel the RFP policy for SO_2 (see the General Preamble, 57 FR 13545, April 16, 1992).

efforts to control emissions from paved roads have usually relied on street cleaning to reduce silt loading. The new approach would put a higher priority on measures to prevent silt from getting on the road surface. Mitigative measures should be reserved for those areas/situations where prevention is not feasible or the only way to reduce the impact is to remove historically-deposited emissions. Technical guidance on fugitive dust control measures is found in "Fugitive Dust Background Document and Technical Information Document for Best Available Control Measures" (EPA–450/2–92–004, September, 1992).

B. List of Available Control Measures

1. Pave, vegetate, or chemically stabilize access points where unpaved traffic surfaces adjoin paved roads.
2. Require dust control plans for construction or land-clearing projects.
3. Require haul trucks to be covered.
4. Provide for traffic rerouting or rapid clean up of temporary (and not readily preventable) sources of dust on paved roads (water erosion runoff, mud/dirt carryout areas, material spills, skid control sand). Delineate who is responsible for cleanup.
5. Require paving, chemically stabilizing, or otherwise stabilizing permanent unpaved haul roads, and parking or staging areas at commercial, municipal, or industrial facilities.
6. Develop traffic reduction plans for unpaved roads. Use of speed bumps, low speed limits, etc., to encourage use of other (paved) roads.
7. Limit use of recreational vehicles on open land (e.g., confine operations to specific areas, require use permits, outright ban).
8. Require curbing and pave or stabilize (chemically or with vegetation) shoulders of paved roads.
9. Pave or chemically stabilize unpaved roads.
10. Pave, vegetate, or chemically stabilize unpaved parking areas.
11. Require dust control measures for material storage piles.
12. Provide for storm water drainage to prevent water erosion onto paved roads.
13. Require revegetation, chemical stabilization, or other abatement of wind erodible soil, including lands subjected to water mining, abandoned farms, and abandoned construction sites.
14. Rely upon the soil conservation requirements (e.g., conservation plans, conservation reserve) of the Food Security Act to reduce emissions from agricultural operations.
15. Require washing of undercarriages and wheels of vehicles immediately prior to leaving the plant area.
16. Require that water used for dust suppression and vehicle washing contain a limited amount of lead (e.g., less than or equal to 0.1 ppm).

Appendix 2—RACT Determinations for Stationary Sources

A. Background

Congress has for the second time in amending the Act specifically required that RACT be applied to existing stationary sources in areas designated nonattainment. In section 172(b)(3) of the Act, as amended in 1977, Congress specified that nonattainment area plans were to "require * * * reasonable further progress * * * including such reduction in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology." Thus, RACT was required in SIP's developed for areas that were designated nonattainment. Although, under the 1977 Amendments, the lead NAAQS were not implemented through the nonattainment area planning provisions; in the 1990 Amendments, Congress reaffirmed the application of the RACT requirement in any area designated nonattainment by largely incorporating the 1977 section 172(b)(3) RACT requirement into section 172(c)(1) which is applicable to lead nonattainment areas. Specifically, section 172(c)(1) of the Act, as amended in 1990 (Nonattainment Plan Provisions—In General), requires that nonattainment area plans provide for "* * * such reductions in emissions from existing sources in the (nonattainment) area as may be obtained through the adoption, at a minimum, of reasonably available control technology." Thus, RACT is now required for lead nonattainment area SIP's.

The EPA recommends that the nonattainment area RACT for a particular source continues to be determined on a case-by-case basis considering the technological and economic feasibility of reducing emissions from that source (through process changes or add-on control technology). The following technological and economic parameters should be considered in determining part D RACT for a particular source.

B. Technological Feasibility

The technological feasibility of applying an emission reduction method to a particular source should consider the sources process and operating procedures, raw materials, physical plant layout, and any other environmental impacts such as water pollution, waste disposal, and energy requirements. The process, operating procedures, and raw materials used by a source can affect the feasibility of implementing process changes that reduce emissions and the selection of add-on emission control equipment. The operation and longevity of control equipment can be significantly influenced by the raw materials used and the process to which it is applied. The feasibility of modifying processes or applying control equipment is also influenced by the physical layout of the particular plant. The space available in which to implement such changes may limit the choices and will also affect the costs of control.

Reducing air emissions may not justify adversely affecting other resources by increasing pollution of bodies of water, creating additional solid waste disposal problems, or creating excessive energy demands. In other words, an otherwise available lead control technology may not be reasonable if these other environmental impacts cannot reasonably be mitigated. For analytic purposes, a State may consider a lead control measure technologically infeasible if, considering the availability (and cost) of mitigative adverse impacts of that control on other pollution media, the control would not, in the State's reasoned judgment, provide a net environmental benefit. In many instances, however, lead control technologies have known energy penalties and adverse effects on other media, but such effects and the cost of their mitigation are also known and have been borne by owners of existing sources in numerous cases. Such well-established adverse effects and their costs are normal and assumed to be reasonable and should not, in most cases, justify nonuse of the lead control technology. The costs of preventing adverse water, solid waste, and energy impacts will also influence the economic feasibility of the lead control technology.

Approaches to reducing emissions of lead are discussed in "Control Techniques for Lead Air Emissions,"[7] Volume I—Chapters 1–3, and Volume II—Chapter 4—Appendix B, (EPA–450/2–77–012), December 1977. The many processes that generate lead air pollutants are described individually in this report. Information on the selection and performance of alternative control techniques applicable to lead emitting facilities within specific source categories is presented. Information on capital and annualized costs of

[7] Note that this document is currently being revised by EPA.

installing lead emission controls is also presented. Since it is not possible, in most cases, to distinguish between costs of particulate control and costs of lead control, control costs are presented for particulate control equipment which coincidentally reduce potential lead emissions. Also presented, for most source categories, are estimates of the environmental and energy impacts associated with the control of lead emissions.

Alternative approaches to reducing emissions of particulate matter (which would include lead) are discussed in "Control Techniques for Particulate Emissions from Stationary Sources"—Volume I (EPA–450/3–81–005a) and Volume II (EPA–450/3–81–005b), September 1982. The design, operation and maintenance of general particulate matter control systems such as mechanical collectors, electrostatic precipitators, fabric filters, and wet scrubbers are discussed in Volume I. The collection efficiency of each system is discussed as a function of particle size. Information is also presented regarding energy and environmental considerations and procedures for estimating costs of particulate matter control equipment. The emission characteristics and control technologies applicable to specific source categories are discussed in Volume II. Secondary environmental impacts are also discussed.

Additional sources of information on control technology are background information documents for new source performance standards and "Identification, Assessment, and Control of Fugitive Particulate Emissions," EPA–600/8–86–023, August 1986.

In some instances, control technologies more modern or more advanced than those described in the documents referenced may exist. In such cases, the State's nonattainment RACT analysis for a source should consider such available technology.

C. Economic Feasibility

Economic feasibility considers the cost of reducing emissions and the difference in costs between the particular source and other similar sources that have implemented emission reductions. As discussed above, EPA presumes that it is reasonable for similar sources to bear similar costs of emission reductions. Economic feasibility rests very little on the ability of a particular source to "afford" to reduce emissions to the level of similar sources. Less efficient sources would be rewarded by having to bear lower emission reduction costs if affordability were given high consideration. Rather, economic feasibility for RACT purposes is largely determined by evidence that other sources in a source category have in fact applied the control technology in question.

The capital costs, annualized costs, and cost effectiveness of an emission reduction technology should be considered in determining its economic feasibility. The "OAQPS Control Cost Manual, Fourth Edition," EPA–450/3–90–006, January 1990, describes procedures for determining these costs. The above costs should be determined for all technologically-feasible emission reduction options.

States may give substantial weight to cost effectiveness in evaluating the economic feasibility of an emission reduction technology. The cost effectiveness of a technology is its annualized cost ($/year) divided by the amount of lead emission reductions (i.e., tons/year) which yields a cost per amount of emission reductions ($/ton). Cost effectiveness provides a value for each emission reduction option that is comparable with other options and other facilities.

If a company contends that it cannot afford the technology that appears to be nonattainment area RACT for that source or group of sources, the claim should be supported with such information as the impact on:

1. Fixed and variable production costs ($/unit).
2. Product supply and demand elasticity.
3. Product prices (cost absorption versus cost pass-through).
4. Expected costs incurred by competitors.
5. Company profits.
6. Employment.

If a company contends that available control technology is not affordable and would lead to closing the facility, the costs of closure should be considered. Closure may incur costs for demolition, relocation, severance pay, etc.

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40 CFR Part 52

[AK–4–1–6027; FRL–4817–6]

Approval and Promulgation of Implementation Plan; Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The EPA proposes approval of the State Implementation Plan (SIP) revision submitted by the state of Alaska for the purpose of bringing about the attainment of the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10). The implementation plan was submitted by the state to satisfy certain federal Clean Air Act (CAA) requirements for an approvable moderate nonattainment area PM–10 SIP for Mendenhall Valley, Alaska due on November 15, 1991. EPA is also proposing approval of the contingency measures submitted by the state of Alaska for the Mendenhall Valley and Eagle River moderate PM–10 nonattainment areas.

DATES: Comments on this proposed action must be postmarked by January 21, 1994.

ADDRESSES: Written comments should be addressed to: Christi Lee, United States Environmental Protection Agency, Air and Radiation Branch (AT–082), 1200 6th Avenue, Seattle, Washington 98101.

Copies of the documents relevant to this action are available for public inspection during normal business hours at: Air and Radiation Branch (AK–4–1–6027), United States Environmental Protection Agency, 1200 Sixth Avenue (AT–082), Seattle, Washington 98101, and the Department of Environmental Conservation, 410 Willoughby, Suite 105, Juneau, Alaska 99801.

FOR FURTHER INFORMATION CONTACT: Christi Lee, Air and Radiation Branch (AT–082), United States Environmental Agency, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553–1814.

SUPPLEMENTAL INFORMATION:

I. Background

The Mendenhall Valley, Alaska, area was designated nonattainment for PM–10 and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act, upon enactment of the Clean Air Act Amendments of 1990. See 56 FR 56694 (Nov. 6, 1991) (40 CFR 81.302 specifying PM–10 air quality designation for the Mendenhall Valley area). The air quality planning requirements for moderate PM–10 nonattainment areas are set out in subparts 1 and 4 of Part D, Title I of the Act.[1] The EPA has issued a "General Preamble," describing EPA's preliminary views on how EPA intends

[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. *See* Pub. L. 101–549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended ("the Act"). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. sections 7401, *et seq.*